

REMARKS

Reconsideration of the rejection of all claims is respectfully requested in view of the above amendments and the following remarks.

Claim Amendments

The claims have been amended to be limited to the elected invention as defined by the Examiner around the elected species of Example 9, wherein A is a pyridazinyl ring and the group -T¹(R²)-L¹-T²(R³)- together form a piperazine ring. Independent claim 1 has been amended accordingly, and the dependent claims have been amended to be consistent therewith.

Claims 9 has been cancelled, inasmuch as the only compound recited in this claim that falls within the elected invention was claimed *per se* in claim 9 of US Patent 6,300,330 (hereinafter “the ‘330 Patent”) that issued on the parent application. Claims 10 and 12 have been cancelled as being in a “use” format not generally accepted under United States practice.

The above amendments have been made without waiver or prejudice to Applicants’ right to prosecute any subject matter deleted thereby in one or more divisional or continuing applications.

Following entry of these amendments, claims 1-8 and 11 and 13-14 remain pending in this application.

Claim Rejection - “Improper Markush”

This ground for rejection, wherein the claims are characterized as being “improper Markush claims,” is understood to be saying that the claims before the above amendments encompassed non-elected inventions. This ground for rejection is therefore believed to have been

overcome by the above amendments by which all claims are now directed toward the elected invention as defined by the Examiner around the elected species of Example 9.

Claim Rejection - Obviousness-type Double Patenting

Claims 1-14 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 of the '330 Patent issuing from the parent application. This ground for rejection has been overcome by the Terminal Disclaimer filed herewith relative to such patent.

Claims 1-14 have been further provisionally rejected under the judicially created doctrine of obviousness-type double patenting relative to claims 1-13 of copending Reissue Application No. 10/391,025 (a reissue of the '330 Patent noted above). This rejection remains provisional inasmuch as no claims have issued from such copending application, and this provisional ground for rejection need not be addressed herein at this time.

Claim Rejection - 35 USC § 112

Claims 1-7 and 10-14 have been rejected under 35 U.S.C. § 112, second paragraph, on five separately itemized grounds, which have been addressed by the amended claims as follows:

- (1) The phrases “for example” and “preferably” have been removed from all claims.
- (2) All improper multiple dependencies have been corrected.
- (3) The misspelling of “pyradaziny” noted in claim 8 in fact appears in claim 9. The cancellation of claim 9 has obviated this ground for rejection.
- (4) Claim 10, which was in a “use” format, has been cancelled, thereby obviating this ground for rejection.
- (5) Claim 12, which was also in a “use” format, has been cancelled, thereby obviating this ground for rejection.

Information Disclosure Statement

Pursuant to the Examiner's request, an Information Disclosure Statement with accompanying form PTO-1449 is submitted herewith, on which is formally cited each of the documents recited during prosecution of the parent application.

Conclusion

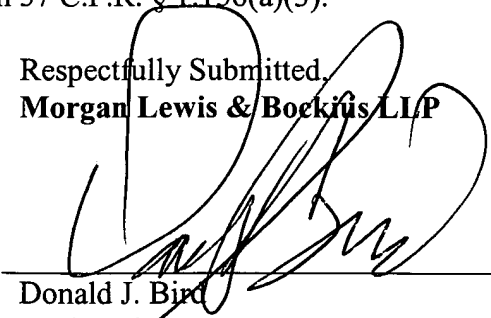
In view of the above amendments and the foregoing remarks, it is believed that all grounds for rejection have been overcome. All claims are now believed to be in condition for allowance, and a notice to that effect is respectfully requested.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Director is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully Submitted,
Morgan Lewis & Bockius LLP

Date: February 28, 2005
Morgan Lewis & Bockius LLP
Customer No. **09629**
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Tel. No.: 202-739-3000
DJB:mk

By:



Donald J. Bird
Registration No. 25,323
Tel. No.: (202) 739-5320
Fax No.: (202) 739-3001